

**IN THE BROWN COUNTY CIRCUIT COURT
STATE OF INDIANA**

**IN THE MATTER OF)
LOCAL COURT RULES)**

**NOTICE OF PROPOSED AMENDMENTS TO LOCAL RULES OF PRACTICE FOR
THE BROWN CIRCUIT COURT**

Pursuant to Trial Rule 81 (C) and the Third Amended Schedule for All Local Court and Administrative District Rules, notice is given to the bar and the public that the Brown Circuit Court is proposing to amend the Local Rules of Practice.

The proposed amendments seek to amend Local Rule 11 (LR07-CR2.2-CRIM-11) Assignment of Criminal Cases and Special Judge Appointment; Local Rule 13 (LR07-CR00-CRIM-13) Bond Schedule and Conditions of Posting Bond; and Local Rule15 (LR07-AR15-ADMIN-15) Court Reporter Services.

Pursuant to Trial Rule 81(D), the court finds good cause to deviate from the schedule for amending local rule Local Rule 13 (LR07-CR00-CRIM-13) Bond Schedule and Conditions of Posting Bond as the bond schedule should be amended to conform to the changes in the criminal code effective July 1, 2014.

The amendment to Local Rule 11 (LR07-CR2.2-CRIM-11) Assignment of Criminal Cases and Special Judge Appointment would delete the judge of the Morgan Superior 1 Court from the list of eligible special judges, as the current judge of that court who had agreed to serve as special judge for Brown County despite being outside our administrative district will be retiring effective December 31, 2014.

The amendments to Local Rule 13 (LR07-CR00-CRIM-13) Bond Schedule and Conditions of Posting Bond would:

1. amend our bond schedule to be consistent with the new levels of felony offenses created by the changes to the criminal code effective July 1, 2014; and
2. amend our bond schedule to be consistent with the recent Indiana Supreme Court decision placing the burden on the State rather than Defendant to establish the basis for holding a defendant without bond on a charge of murder.

The proposed amendments to Local Rule15 (LR07-AR15-ADMIN-15) Court Reporter Services would make the per page cost of indigent transcripts equal to the per page cost of private transcripts at a rate of \$4.00 per page.

All new text is shown by underlining and deleted text is shown by ~~striketrough~~. The text of the proposed amendments reads as follows:

**LR07-CR2.2-CRIM-11 Assignment of Criminal Cases and Special Judge
Appointment**

All felony and misdemeanor cases are assigned to the regular judge of the Brown Circuit Court.

In the event a change of judge is granted, or an order of disqualification or recusal is entered, in any felony or misdemeanor case pending in the Brown Circuit Court, a special judge shall be appointed in rotating order from the judges of the following courts, comprising certain of the courts contiguous to Brown County:

Bartholomew Circuit
Bartholomew Superior 1
Bartholomew Superior 2
Jackson Circuit
Jackson Superior 1
Jackson Superior 2
~~Morgan Superior 1~~
Monroe Circuit 3
Monroe Circuit 9

The Clerk shall maintain the list of special judges, and shall select from the list on a rotating basis when appointment under this local rule is required. If a judge is skipped in the rotation because of ineligibility or disqualification, he or she shall be selected first for the next eligible case.

LR07-CR00-CRIM-13 Bond Schedule and Conditions of Posting Bond

(A) Bond Schedule: Unless otherwise ordered by the court, individuals arrested and taken into custody will be allowed to post bond prior to initial hearing in accordance with the attached bond schedule and subject to the conditions and time frames set forth in the schedule.

(B) No Contact and No Violent Contact as a Condition of Bond on Crimes of Violence: Unless otherwise ordered by the judge or magistrate, it shall be a condition of pretrial release and bond for any individual arrested for a felony offense involving either violence against an individual or a threat of violence against an individual, including but not limited to domestic violence, that the person bonding be prohibited from having any contact whatsoever, directly or indirectly, with the alleged victim of the crime and that the person bonding be prohibited from possessing any firearms or deadly weapons.

Unless otherwise ordered by the judge or magistrate, it shall be a condition of pretrial release and bond for any individual arrested for a misdemeanor offense involving either violence against any individual or a threat of violence against any individual, including but not limited to domestic violence, that the person bonding be prohibited from having any violent contact with the alleged victim of the crime and that the person bonding be prohibited from possessing any firearms or deadly weapons.

The attached forms should be used to provide notice to the accused of the no contact or no violent contact condition of bond.

(C) Time for Posting Bond: Unless otherwise ordered by the judge, or reasonably required by the Brown County Sheriff, individuals shall be entitled to post bond as soon as practical following arrest and processing except:

1. Individuals Who are Under Any Influence of Alcohol, Drugs, or Controlled Substances

In accordance with state statutes and the policy of the Brown County Sheriff, any individual reasonably believed to be under any influence of alcohol, drugs or controlled substances when arrested may be detained without bond until he or she is no longer under such influence.

2. Family Violence:

Anyone arrested for an offense involving family violence (as defined in I.C. 34-6-2-34.5 to include attempting, threatening or causing physical harm to another family or household member, placing a family or household member in fear of physical harm, or causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress) shall not be allowed to post bond until the earlier of his or her initial hearing or forty eight (48) hours after arrest. The court finds this Acooling off@ period is needed because of the unique nature of family violence, which often involves high emotions between individuals who live in close physical proximity.

BOND SCHEDULE B BROWN CIRCUIT COURT

EFFECTIVE ~~April 1, 2005~~ **July 1, 2014**, and unless otherwise ordered by the judge or magistrate, initial bond on individuals arrested and taken into custody will be set according to the following schedule by posting bond either through a surety or by posting a 10% cash bond.

FELONIES

(A) Murder	NO BOND
(B) Class A Felonies	To be set at Initial Hearing; NO BOND until Initial Hearing
(C) Class B Felonies	\$20,000.00
(D) Class C Felonies	
Against the Person	\$10,000.00
Against Property	\$ 5,000.00
Class D Felonies	2,500.00

(A) Murder	NO BOND Until Initial Hearing
(B) Level 1 Felonies	NO BOND Until Initial Hearing
(C) Level 2 Felonies	\$50,000.00
(D) Level 3 Felonies	\$30,000.00
(E) Level 4 Felonies	\$15,000.00
(F) Level 5 Felonies	\$5,000.00
(G) Level 6 Felonies	\$2,500.00

MISDEMEANORS

Individuals arrested on the following misdemeanor charges shall be released on their own recognizance: (Note some of the listed offenses could be charged as either a felony or a misdemeanor. This OR provision relates only to misdemeanor charges. If the arrest is for a felony charge, bond should be set according to the felony schedule):

Possession of paraphernalia; Driving while suspended; Public intoxication (but only after expiration of the time for ensuring the individual's sobriety); Illegal possession of alcohol; Illegal consumption of alcohol; Operating without ever receiving a license; Visiting a common nuisance, and misdemeanors defined in Indiana Code Title 14(DNR violations).

Bond for all other misdemeanors should be set according to the following:

- (1) Class A Misdemeanors.....\$ 1,500.00
- (2) Class B Misdemeanors..... \$ 1,000.00
- (3) Class C Misdemeanors..... \$ 500.00

Infractions are civil and do not require arrest or bond.

TIMES FOR POSTING BOND

Unless otherwise ordered by the judge, required by law, or reasonably required by the Brown County Sheriff, individuals shall be entitled to post bond as soon as practical following arrest and processing except:

- (1) Individuals Who are Under Any Influence of Alcohol, Drugs, or Controlled Substances

In accordance with state statutes and the policy of the Brown County Sheriff, any individual reasonably believed to be under any influence of alcohol, drugs or controlled substances when arrested may be detained without bond until he or she is no longer under such influence.

II. Family Violence Anyone arrested for an offense involving family violence (as defined in I.C. 34-6-2-34.5 to include attempting, threatening or causing physical harm to another family or household member, placing a family or household member in fear of physical harm, or causing a family or household member to involuntarily engage in sexual activity by force, threat of force, or duress) shall not be allowed to post bond until the earlier of his or her initial hearing or forty-eight (48) hours after arrest.

SPECIAL CONDITIONS OF BOND

These standard conditions restricting contact between an accused and an alleged victim in crimes of violence are subject to review on an individual basis at the initial hearing or at any other time necessary.

I. Felony Crimes of Violence B No Contact Order

Unless otherwise ordered by the court, it shall be a condition of bond/bail for any felony offense involving violence or a threat of violence, including but not limited to domestic violence, that the accused have **no contact**, directly or indirectly, with the alleged victim pursuant to the terms of the attached Local Rule. The Sheriff shall be responsible for serving a copy of the Local Rule on the accused prior to release.

II Misdemeanor Crimes of Violence B No Violent Contact Order

Unless otherwise ordered by the court, it shall be a condition of bond/bail for any misdemeanor offense involving violence or a threat of violence, including but not limited to domestic violence, that the accused have **no violent contact**, directly or indirectly, with the alleged victim pursuant to the terms of the attached Local Rule. The Sheriff shall be responsible for serving the Local Rule on the accused prior to release.

~~SO ORDERED~~ this _____ day of _____ 20____

Judith A. Stewart, Judge Brown Circuit Court

Date

Accused's Signature

STATE OF INDIANA) IN THE BROWN CIRCUIT COURT
)
COUNTY OF BROWN)

NO CONTACT AS A CONDITION OF BOND FOR FELONY CRIME INVOLVING VIOLENCE OR THREAT OF VIOLENCE

Pursuant to Rule LR07-CR00-CRIM-13 of the Local Rules of the Brown Circuit Court, the following term is a condition of release from custody pending trial for any individual arrested for a felony offense involving violence against any individual, or a threat of violence against any individual, including but not limited to domestic violence:

THE ACCUSED SHALL HAVE NO CONTACT WHATSOEVER, directly or indirectly, with the alleged victim of the crime, in person, by telephone or letter, through an intermediary, in any other way, directly or indirectly, except through authorized counsel of record. Contact with the alleged victim is prohibited even if the alleged victim seeks or attempts to initiate the contact. This term of release is set by the court and may not be waived or terminated by the alleged victim.

THE DEFENDANT SHALL NOT have any firearms or deadly weapons in his or her possession.

These conditions of bond and pretrial release shall remain in effect during the prosecution of the case or until further order of the court. **VIOLATION OF THESE CONDITIONS OF BOND AND PRETRIAL RELEASE MAY CONSTITUTE VIOLATIONS OF I.C. 35-33-8-5 AND I.C. 35-46-1-15.1.**

I acknowledge I have received a copy of the No Contact As a Condition of Bond For Felony Crime Involving Violence or Threat of Violence. I understand that my bond may be revoked and I may be held in jail without bond until trial if I have any contact with the alleged victim. I also understand that violation of this order may constitute a new crime.

Date

Accused's Signature

STATE OF INDIANA)
)
COUNTY OF BROWN)

IN THE BROWN CIRCUIT COURT

**NO VIOLENT CONTACT AS A CONDITION OF BOND
FOR MISDEMEANOR CRIME INVOLVING VIOLENCE OR THREAT OF
VIOLENCE**

Pursuant to Rule LR07-CR00-CRIM-13 of the Local Rules of the Brown Circuit Court, the following term is a condition of release from custody pending trial for any individual arrested for a misdemeanor offense involving violence against any individual, or a threat of violence against any individual, including but not limited to domestic violence:

THE ACCUSED SHALL HAVE NO VIOLENT CONTACT with the alleged victim of the crime. This term of release is set by the court and may not be waived or terminated by the alleged victim.

THE ACCUSED SHALL NOT have any firearms or deadly weapons in his or her possession.

These terms of bond and pretrial release shall remain in effect during the prosecution of the case or until further order of the court.

**VIOLATION OF THESE CONDITIONS OF BOND AND PRETRIAL RELEASE MAY
CONSTITUTE VIOLATIONS OF I.C. 35-33-8-5 AND MAY RESULT IN REVOCATION
OF THE ACCUSED'S BOND.**

I acknowledge I have received a copy of the Court's Standing Order for No Violent Contact as a Condition of Bond for Misdemeanor Crime Involving Violence or Threat of Violence and understand that my bond may be revoked and I may be held in jail without bond until trial if I have any violent contact with the alleged victim.

Date

Accused's Signature

LR07-AR15-ADMN-15 Court Reporter Services

Section One. Definitions. For purposes of this local rule, the following definitions shall apply:

- (3) A *Court Reporter* is a person who is specifically designated by the court to perform the official court reporting services for the court including preparing a transcript of the record.
- (4) *Equipment* means all physical items owned by the court or other governmental entity and used by a court reporter in performing court reporting services. Equipment shall include, but not limited to, telephones, computer hardware, software programs, disks, tapes and any other device used for recording and storing, and transcribing electronic data.
- (5) *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.
- (6) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana Rule of Appellate Procedure 7.2.
- (7) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.
- (8) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week. Depending on the particular court, these hours may vary from court to court and county to county, but remain the same for each work week.
- (9) *Gap hours worked* means those hours worked that are in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.
- (10) *Overtime hours* means those hours worked in excess of forty (40) hours per work week.
- (11) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days throughout the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.
- (12) *Court* means the particular court for which the court reporter performs services.
- (13) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

- (14) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who is declared indigent by a court.
- (15) *Private transcript* means a transcript, including but not limited to a deposition transcript, that is paid for by a private party.

Section Two. Court Reporter; Salaries and Per Page Fees.

- (4) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The court shall enter into a written agreement with the court reporters that outlines the manner in which the court reporter is to be compensated for gap and overtime hours; i.e. monetary compensation or compensatory time off regular work hours.
- (5) The maximum per page fee a court reporter may charge for the preparation of a county indigent transcript shall be ~~Three Dollars (\$3.50)~~ **Four Dollars (\$4.00)**; the court reporter shall submit a claim directly to the county for the preparation of any county indigent transcripts.
- (6) The maximum per page fee a court reporter may charge for the preparation of a state indigent transcript shall be ~~Three Dollars (\$3.50)~~ **Four Dollars (\$4.00)**.
- (7) The maximum per page fee a court reporter may charge for the preparation of a private transcript shall be Four Dollars (\$4.00), plus the actual cost of paper used at a per page cost.
- (8) The per page fee for expedited transcripts shall be \$6.00 with 24 hours notice and \$5.00 with three (3) days notice.
- (9) Each court reporter shall report, at least on an annual basis, all transcript fees received for the preparation of county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of the State Court Administration.

Section Three. Private Practice.

- (2) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, and the court reporter desires to utilize the court's equipment, work space and supplies, and the court agrees to the use of the court equipment for such a purpose, the court and the court reporter shall enter into a written agreement which must, at a minimum, designate the following:
 - a. The reasonable market rate for the use of the equipment, work space and supplies;
 - b. The method by which records are to be kept for the use of equipment, work space and supplies; and
 - c. The method by which the court reporter is to reimburse the court for the use of the equipment, work space and supplies.

If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular working hours.

A copy of the proposed amendments is available for viewing or obtaining of a copy in the office of the Clerk of the Brown Circuit Court located at P.O. Box 85, 20 E. Main Street, Nashville, IN 47448-0085. A copy will be posted on the Indiana Judicial website at www.in.gov/judiciary/rules/local/.

COMMENTS ON LOCAL RULES

Comments may be made until June 27, 2014 with respect to the proposed amendment to Local Rule 13 and until July 1, 2014 with respect to the proposed amendments to Local Rules 11 and 15 to: Judge Judith A. Stewart, Brown Circuit Court, Courthouse, P.O. Box 85, 20 E. Main Street, Nashville, IN 47448 or by email at stewartja@browncounty-in.us. Final local court approval will be made by June 30 for Local Rule 13 and July 31, 2014. The proposed amendments regarding Local Rule 11 (LR07-CR2.2-CRIM-11) Assignment of Criminal Cases and Special Judge Appointment and Local Rule 15 (LR07-AR15-ADMIN-15) Court Reporter Services will be submitted to the Supreme Court for consideration of approval by August 1, 2014.

EFFECTIVE DATE

The amendment to Local Rule 13 (LR07-CR00-CRIM-13) Bond Schedule and Conditions of Posting Bond will be effective July 1, 2014. The amendments to Local Rule 11 (LR07-CR2.2-CRIM-11) Assignment of Criminal Cases and Special Judge Appointment and Local Rule 15 (LR07-AR15-ADMIN-15) Court Reporter Services will be effective January 1, 2015 if approved by the Indiana Supreme Court.

Dated this _____ day of _____, 20_____.

Judith A. Stewart
Judge of the Brown Circuit Court